

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

David T. Clos,

Court File No. 06-CV-4916 PAM/FLN

Plaintiff,

v.

State of Minnesota; Joan Fabian,
Commissioner of the Minnesota Department
of Corrections; Wright County, a political
subdivision; Gary Miller, Sheriff of Wright
County; Corrections Corporation of
America, a corporation; and Daren Swenson,
Warden,

**STIPULATION AND ORDER
FOR DISMISSAL
AND ENTRY OF JUDGMENT
TO PERMIT APPEAL**

Defendants.

Plaintiff David T. Clos and Defendants Corrections Corporation of America and Daren Swenson, Warden, at a settlement conference supervised by Magistrate Judge Franklin Noel on March 23, 2009, reached an agreement for resolution of all remaining claims and entry of judgment in this matter in order to permit Plaintiff to make an immediate appeal to the Eighth Circuit Court of Appeals from the Memorandum and Order of this Court dated January 27, 2009 (Docket No. 173). In furtherance of that agreement, the parties, through their undersigned counsel, stipulate and agree as follows:

1. All remaining claims in the case, including but not limited to the claim Plaintiff has asserted under the Minnesota Human Rights Act ("MHRA") against Corrections Corporation of America ("CCA") and Daren Swenson, Warden, shall be and hereby are dismissed without prejudice, subject to the remaining terms of this Stipulation and Order, without an award of attorney fees, costs or disbursements to any party.

2. The parties agree that, the MHRA claim remaining for trial between the parties having been resolved by settlement, there is no just reason for delay in entering judgment

pursuant to Fed. R. Civ. P. 54(b) pursuant to the Memorandum and Order of this Court dated January 27, 2009 (Docket No. 173), and request that the Court order entry of judgment based on Rule 54(b). If the Court declines to enter such Order, this Stipulation shall be considered to be withdrawn.

3. Should Plaintiff prevail on appeal of any of the claims dismissed on summary judgment, he may pursue the MHRA claim dismissed without prejudice pursuant to this Stipulation and Order, which will be reinstated. Defendants CCA and Swenson waive any statute of limitations applicable to such claim.

4. If, however, Plaintiff does not prevail on appeal of any of the claims dismissed on summary judgment, the parties stipulate that, upon entry of a final order on appeal, the dismissal of the remaining MHRA claim will become with prejudice, and that claim will not be reinstated under any circumstances.

5. The parties respectfully request that the Court enter this Stipulation as an Order, and that judgment be entered accordingly.

Dated: March 30, 2009.

Dated: March 30, 2009.

RICHARD I. DIAMOND, P.A.

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ATTORNEYS FOR PLAINTIFF
DAVID T. CLOS

ATTORNEYS FOR DEFENDANTS
CORRECTIONS CORPORATION
OF AMERICA AND DAREN SWENSON

There being no just reason for delay, LET JUDGMENT BE ENTERED

ACCORDINGLY as to the Court's Memorandum and Order for summary judgment dated January 27, 2009 (Docket No. 173).

Dated: April 1, 2009.

BY THE COURT:

s/Paul A. Magnuson
The Honorable Paul A. Magnuson
Judge of United States District Court